

REMARKS

Applicants reply to the Office Action dated April 23, 2007 within the shortened three-month statutory period for reply. Claims 1-22 were pending in the application and the Examiner rejects claims 1-22. Applicants cancel claims 6-11, 16-18 and 20-22 without prejudice to filing one or more applications having claims with similar subject matter.

Applicants add new dependent claims 24-31 which are the issued claims from U.S. Patent No. 7,239,226 from which the present application claims priority. As such, Applicants assert that, since claims 24-31 were previously considered patentable, then the same claims depending from independent claim 1 should also be considered patentable. In other words, claims 24-31 contain patentable subject matter, so adding elements (improvements) from claim 1 should also be considered patentable subject matter.

Applicants also add new dependent claims 32-36 which are the issued claims from U.S. Patent No. 7,154,375, and the '375 Patent includes the same specification as the present specification. As such, Applicants assert that, since claims 32-36 were previously considered patentable, then the same claims depending from independent claim 1 should also be considered patentable.

Support for the amendments and new claims may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments and new claims. Reconsideration of this application is respectfully requested.

Applicants respectfully assert that the subject matter of the various claims was commonly owned at the time the inventions covered therein were made and therefore, Applicants have complied with 37 C.F.R. § 1.56.

Claims 1-13 and 17-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Black, U.S. 6,925,565 ("Black") in view of Elledge U.S. 6,609,656 ("Elledge"). Claim 13 further stands rejected over Black/Elledge in view of Martizen et al. as cited in the previous Office Action. Claim 14 stands rejected over Black/Elledge/Martizen in view of Moebs as cited in the previous Office Action. Claim 15 stands rejected over Black/Elledge in view of Teicher as cited in the previous Office Action. Claim 16 stands rejected over Black/Elledge in view of Goodman as cited in the previous Office Action. Claim 19 stands rejected over Black/Elledge in view of Haala as cited in the previous Office Action or alternatively in view of Black U.S. 2005/0122209 ("Black II"). Applicants respectfully traverse these rejections.

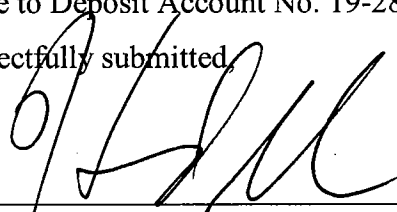
As suggested by the Examiner, Applicant amended independent claim 1 and many other dependent claims in conformance with the Examiner's very helpful suggestions in the Office Action. As such, Applicants assert that neither of the cited references, alone or in combination disclose or suggest at least "a second transponder physically in a same fob as, and associated with, said first transponder and responsive to a second RF interrogation signal, said first RF interrogation signal responding to distinct frequencies from said second RF interrogation signal . . . a verification device configured to verify said proffered biometric sample to selectively activate one of said first and second transponders to facilitate a payment transaction," as recited by independent claim 1.

Claims 2-5, 12-15, and 19 variously depend from independent claim 1. As such, dependent claims 2-5, 12-15, and 19 are differentiated from the cited references for at least the reasons set forth above, as well as in view of their own respective features. Applicants also canceled claims 6-11, 16-18 and 20-22, so the rejections related to these claims are now moot.

As discussed above, new dependent claims 24-36 variously depend from independent claim 1. As such, new dependent claims 24-36 are differentiated from the cited references for at least the reasons set forth above, as well as in view of their own respective features.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814..

Respectfully submitted,



Howard I. Sobelman
Reg. No. 39,038

Dated: July 16, 2007

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228
Fax: 602-382-6070
Email: hsobelman@swlaw.com